

Decision 01-09-041 September 20, 2001

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SOUTHERN CALIFORNIA EDISON COMPANY (U 338-E) for Authority to Make the Following Changes to Its Present Ratemaking for Its Share of Palo Verde Nuclear Generating Station Unit No. 1, 2, and 3:
(i) Accelerate Recovery of the Company's Sunk Investment; (ii) Adopt Palo Verde Incremental Cost Incentive Pricing for its Incremental Costs; and (iii) Receive Related and Substantive and Procedural Relief.

Application 96-02-056
(Petitions for Modification
filed May 4, 2001)

O P I N I O N

Southern California Edison Company (SCE or Edison) petitions for modification of Decision (D.) 96-12-083 to extend the ratemaking mechanism for Palo Verde Nuclear Generating Station Unit Nos. 1, 2, and 3 (Palo Verde) incremental operating costs through December 31, 2002. SCE further petitions for modification of D.96-12-083 to permit implementation of certain provisions of a Memorandum of Understanding (MOU) between it and the California Department of Water Resources (CDWR) dated April 9, 2001. Implementation requires modification of D.96-12-083.

D.96-12-083 adopted a Settlement Agreement between SCE, the Office of Ratepayer Advocates (ORA) and The Utility Reform Network (TURN). The Settlement Agreement set forth a Palo Verde incremental cost mechanism ratemaking to continue through December 31, 2001, which included a provision that:

- The Nuclear Unit Incentive Procedure (NUIP) for Palo Verde will continue through December 31, 2001, for purposes of calculating a reward only. The NUIP will reward SCE for any units performing above an 80% capacity factor for a fuel cycle by sharing equally the difference between the additional variable cost (nuclear fuel) and the replacement power cost of the output above an 80% capacity factor.

The Settlement Agreement also provided that after December 31, 2001, SCE could sell the power generated at Palo Verde to any “customer or group of customers, . . . under provisions, terms, and conditions” conforming with laws and regulatory procedures. Shareholders and customers were to split any net benefits of post-2001 operation.

On May 15, 2000, SCE submitted an application to sell its interests in Four Corners Generating Station and Palo Verde. The application was submitted in lieu of a Palo Verde application to establish a methodology for sharing the benefits of post-2001 Palo Verde operation between customers and shareholders.

On January 18, 2001, Governor Davis signed Assembly Bill 6 from the First Extraordinary Session (AB6X), which states in pertinent part:

“. . .Notwithstanding any other provision of law, no facility for the generation of electricity owned by a public utility may be disposed of prior to January 1, 2006. The commission shall ensure that public utility generation assets remain dedicated to service for the benefit of California ratepayers.” (AB6X, § 3.)

As a result of the passage of AB6X, SCE will not be able to complete its sale of Palo Verde. In addition, AB6X precludes the sale of Palo Verde generation to customers other than California ratepayers.

In the MOU between CDWR and SCE, the parties agreed that SCE should be entitled to collect revenues sufficient to recover its costs associated with Palo Verde and its other Utility Retained Generation (URG) in accordance with the

principles of cost-based ratemaking as applied in this state. SCE asserts that the current Palo Verde ratemaking mechanism fully complies with the MOU, and can be continued through December 31, 2002, consistent with the terms of the MOU. After 2002, SCE intends to add a request for cost-based rate recovery of Palo Verde costs to its Test Year 2003 General Rate Case (GRC), for rates to be effective January 1, 2003. Because the present Palo Verde ratemaking mechanism terminates on December 31, 2001, SCE requests extension of the current Palo Verde ratemaking mechanism through December 31, 2002. This will provide for cost-based Palo Verde ratemaking during litigation of the Test Year 2003 GRC in 2002.

ORA supports SCE's returning Palo Verde to cost-of-service ratemaking and extending the existing ratemaking treatment for Palo Verde through 2002. ORA asserts that the Commission should not consider the MOU in this proceeding as it is not necessary for the disposition of SCE's petitions. Finally, ORA states that the Palo Verde NUIP is no longer appropriate in the current uncertain electric market; therefore, it must be modified. ORA supports TURN's recommendation regarding NUIP.

TURN supports SCE's petitions provided the NUIP is modified or eliminated and that the MOU is not implemented. TURN argues that at the time the settlement agreement adopted in D.96-12-083 was negotiated, the general expectation was that the replacement power cost would be in the range of three to five cents per kilowatt-hour (kWh). Since June 2000, those costs have been in the range of 10 times higher; and those higher costs are likely to persist through the end of 2002. Therefore, the Commission should eliminate the NUIP or, at the very least, cap the replacement power cost at five cents per kWh.

In regard to the MOU, TURN states that SCE has failed to support its claim that the MOU justifies the changes it seeks. The relief SCE seeks is adequately supported by AB6X and AB1X; nothing more is needed.

In response to the positions of ORA and TURN, SCE agrees with TURN's NUIP proposal to cap the replacement power costs at five cents per kWh. ORA also agrees to accept the five-cent cap.

Discussion

In D.01-06-041 in A.93-12-025, SCE petitioned to modify D.96-04-059 in order to return the San Onofre Nuclear Generating Unit Nos. 2&3 (SONGS 2&3) to cost-of-service ratemaking. SCE gave as one of its reasons the MOU with CDWR. In our decision, we granted the relief requested but said "We do not base our decision on Edison's MOU with CDWR, nor do we take any position on the MOU in this decision." (D.01-06-041, at mimeo. 5.) In this Palo Verde petition, we reiterate and adopt that statement.

In regard to the NUIP, all parties agree that it should be capped at five cents/kWh; we shall do so. All parties agree that Palo Verde be returned to cost-of-service ratemaking and that the current Palo Verde ratemaking mechanism be extended through 2002.

The Commission retains the discretion to further define the appropriate cost-of-service ratemaking for Palo Verde in future decisions. We adopt the modifications discussed above because they are consistent with AB1X-6. If appropriate at a later time, we have the discretion to determine whether to modify further the ratemaking treatment for Palo Verde. Rather than extend rates to a specific date (i.e., December 31, 2002) which might require modification, the better course is to extend rates through SCE's next general rate case or further order of the Commission.

We make the following changes to D.96-12-083 and to the Settlement Agreement, which was attached to that decision as Attachment 1: (The entire agreement is set forth in 70 CPUC2d 432, 439-451; underlined material is added, crossed out, deleted.)

The Settlement Agreement set forth in Attachment 1, is adopted, with the following modifications: Sections 4.2.5 and 4.2.6 are deleted and Section 4.4.4 is modified as set forth below:¹

¹ Deleted Sections

4.2.5 After December 31, 2001, there will be no further rights or obligations by Edison's CPUC-jurisdictional customers regarding Palo Verde, except as provided in this section and Sections 4.2.6, 4.4.1, and 4.4.4. Edison may sell power generated by Palo Verde to any customer or group of customers, including CPUC-jurisdictional customers, under prices, terms, and conditions which conform to any then-existing state and/or federal laws or regulatory procedures. Beginning January 1, 2002, customers will be entitled to 50% of the post-2001 net benefits associated with the operation of Palo Verde in an electricity market. The post-2001 net benefits can be valued by either:

- a) The audited profits from continued operations, or
- b) Commission determination of any gain-on-sale or loss-on-sale associated with the sale of Edison's share of Palo Verde (including potential sale to Edison International);
- c) Acceptance by Edison of a third-party appraisal consistent with the Commission's restructuring policy decision (D.95-12-063, p. 139), or then-existing state or Commission policy on third-party appraisals of nuclear plants; or
- d) Another valuation method adopted by the Commission.

Edison will notify the Commission by application, filed no later than July 1, 2000, as to its preferred approach to the valuation of the plant for the period beginning January 1, 2002. Edison's application shall include the ratemaking and accounting methods to be used in the valuation of the post-2001 benefits associated with the operation of Palo Verde.

4.2.6 In the event of a permanent closure of Palo Verde 1, 2, and/or 3 which occurs after December 31, 2001, the recovery of Shutdown O&M Expenses and unamortized fuel

Footnote continued on next page

4.4.4 Nothing in this Agreement will preclude Edison from requesting that it be permitted to recover at any time (a) any assessments or retrospective premiums under the Nuclear Regulatory Commission (NRC) secondary financial protection program, or the Master Worker Liability coverage with ANI/MAELU associated with incidents or exposures at any location ~~commencing prior to January 1, 2002 (or on or after January 1, 2001 with respect to nuclear generating stations in the United States at location other than Palo Verde)~~ or relating to Palo Verde nuclear plant decommissioning, or (b) any costs associated with claims by workers and/or third parties including, but not limited to, allegations of exposure to nuclear radiation and/or electric and magnetic fields (EMF) associated with incidents or exposures at any location ~~commencing prior to January 1, 2002 (or on or after January 1, 2002 with respect to nuclear generating stations in the United States at locations other than Palo Verde)~~ or relating to Palo Verde nuclear plant decommissioning.

Comments to the Draft Decision

The draft decision of Administrative Law Judge Barnett was mailed to parties in accordance with Pub. Util. Code § 311(g)(1) and Rule 77.2 through 77.5. No comments were received.

would be recovered from CPUC-jurisdictional customers. After December 31, 2001, the CPUC-jurisdictional customers' obligation for Shutdown O&M Expenses and unamortized fuel is reduced by 10% each year, as shown in the table below. (Table omitted.)

For example, if permanent closure occurs at any time in 2005, the CPUC-jurisdictional customer's responsibility for permanent closure non-investment related expenses and unamortized fuel shall be 70% for each year from 2005 through the end of Palo Verde's NRC license period, and shareholders shall be responsible for 30%.

Findings of Fact

1. The modifications SCE proposes in its petitions, as modified in the ordering paragraphs, comply with AB6X.
2. The Commission does not base this decision on SCE's MOU with CDWR, nor does the Commission take a position on the MOU in this decision.
3. AB6X was enacted in January 2001, and the Commission adopted the decision that SCE requests be modified (D.96-12-083) in 1996.
4. NUIP replacement power costs should be capped at five cents/kWh.

Conclusions of Law

1. Under the recently enacted AB6X, the Commission is required to ensure that SCE's generating assets, including Palo Verde, "remain dedicated to service for the benefit of California ratepayers."
2. The Settlement Agreement is modified to extend the ratemaking mechanism for recovery of Palo Verde incremental operating costs through SCE's next general rate case or further order of the Commission.
3. Modification of the Settlement Agreement is required because SCE now contemplates adding a request for cost-based rate recovery of Palo Verde costs to its Test Year 2003 GRC for rate to be effective January 1, 2003.
4. SCE should continue the present rate recovery for Palo Verde incremental costs until the effective date of a decision on its next general rate case or further order of the Commission.
5. The modifications to D.96-12-083 set forth in the ordering paragraphs should be adopted.

O R D E R

IT IS ORDERED that:

1. In Decision 96-12-083 (70 CPUC2d 432), the Settlement Agreement set forth in Attachment 1, is adopted, with the following modifications: Sections 4.2.5 and 4.2.6 are deleted and Section 4.4.4 is modified as set forth below:

4.4.4 Nothing in this Agreement will preclude Edison from requesting that it be permitted to recover at any time (a) any assessments or retrospective premiums under the Nuclear Regulatory Commission (NRC) secondary financial protection program, or the Master Worker Liability coverage with ANI/MAELU associated with incidents or exposures at any location or relating to Palo Verde nuclear plant decommissioning, or (b) any costs associated with claims by workers and/or third parties including, but not limited to, allegations of exposure to nuclear radiation and/or electric and magnetic fields (EMF) associated with incidents or exposures at any location or relating to Palo Verde nuclear plant decommissioning.

2. Southern California Edison Company (SCE) shall continue the present rate recovery for Palo Verde incremental costs until the effective date of a decision on its next general rate case or further order of the Commission.

3. The Nuclear Unit Incentive Procedure replacement power costs are capped at five cents/kilowatt-hour.

4. No later than 20 days after the effective date of this decision, SCE shall file revised tariff sheets in compliance with GO 96-A which implement the modifications in this decision. The revised tariff sheets shall apply to service rendered on or after their effective date.

5. Application 96-02-056 is closed.

This order is effective today.

Dated September 20, 2001, at San Francisco, California.

LORETTA M. LYNCH
President
HENRY M. DUQUE
RICHARD A. BILAS
CARL W. WOOD
GEOFFREY F. BROWN
Commissioners